

Edited by

Gregory E. Seller, Senior Vice President  
Government Markets (800) 933-9808

Marilyn R. Collister, National Director, Regulatory Policy  
Plan Design & Compliance (800) 537-2033, Ext. 73819

## IRS Confirms That Employee Contributions to Retiree Health Saving Arrangement Are Taxable Private Letter Ruling 200704005

The Internal Revenue Service (IRS) recently issued Private Letter Ruling 200704005 (PLR) confirming that employee contributions to a governmental retiree healthcare savings arrangement are taxable to the employee at the time they are made. The PLR specifically provides that such employee contributions are taxable *even if they are made in accordance with an irrevocable salary reduction election*. Based upon a literal interpretation of the PLR, participant contributions may need to be reported as taxable in prior years when contributed.

Although the PLR applies only to the governmental employer who requested the ruling, the reference to several Internal Revenue Code sections and revenue rulings makes it quite clear that this PLR represents the position of the IRS on the “irrevocable elective contribution” issue. We are also aware of another governmental plan sponsor who recently requested a similar ruling. When the IRS advised them that a favorable ruling would not be issued as long the plan allowed irrevocable employee contributions, the plan sponsor chose to voluntarily withdraw their request rather than receive an adverse ruling.

Great-West has consistently advised employers that, pursuant to applicable IRS guidance, retiree healthcare savings arrangements must be funded exclusively with employer contributions. PLR 200704005 confirms our position that employee elective contributions, even on an irrevocable basis, may not be used to fund such plans on a pre-tax basis. This rule applies to a healthcare arrangement structured as an integral part trust (IPT) or as a 401(h) feature within a qualified 401(a) pension plan.

This PLR places existing governmental retiree healthcare plans with an irrevocable elective contribution feature in limbo. Plan sponsors should contact their plan provider and seek the advice of counsel to determine how this new IRS guidance affects their plan and the taxation of participant contributions.

A copy of PLR 200704005 is attached. For more information, please contact your local Great-West Retirement Services associate:

<b>J. Chris Luttgies</b> Vice President, Field Operations & Plan Management 800.537.2033 ext. 71856	<b>Kent Morris,</b> Vice President, Western Region, 800-382-8924	<b>Brent Neese</b> Vice President, Eastern Region 978.407.9000	<b>Theresa Cruz Myers</b> Vice President, Central Region 303.984.5370	<b>Jim Bye</b> Vice President, Great Lakes Region 612.710.9299	<b>Robert Dwyer</b> Manager, Market & Strategic Development 800.537.2033 ext 72408
<b>Mike Abkowitz</b> Regional Director, Texas/Oklahoma 866-613-6189	<b>John Steggell,</b> Regional Director, Irvine, CA 800-933-9808	<b>Perry Christie</b> Vice President 800.537.2033 ext 73724	<b>Michelle Williams</b> Manager 800.537.2033 ext 74648	<b>Darryl Collier</b> Asst. Vice President 800.537.2033 ext 73291	<b>Rick Kramer</b> Asst. Vice President 800.537.2033 ext 73346
<b>Julie Klassen</b> Regional Director, Govt. Market Development 800.933.9808	<b>Paul Corchado</b> Regional Director Chicago, IL 800-926-5862	<b>Tim Jones,</b> RVP, Pacific Northwest 800-462-9277	<b>Brion Beetz,</b> RVP, San Ramon, CA 800-274-8491	<b>Joe Dionisi,</b> RVP, Louisiana & Florida 800-937-7604	<b>Jim Condon,</b> Regional Director, NY/NJ Region 800.596.3384
<b>Les Thompson,</b> Regional Director, Virginia 866.226.6682	<b>James Owens,</b> Regional Director, North Carolina 888.600.2763	<b>Usha Archer,</b> Regional Director, Los Angeles, 800.382.8924	<b>Vanessa Coakley,</b> Regional Director, Michigan 269.823.4020	<b>Andrew Ahrens,</b> Regional Director, Colorado 800.947.4409	<b>Cathy</b> Matusiewicz, Regional Director, Irvine, 800-933-9808
<b>John Reeder,</b> Regional Director, Tennessee 800.922.7772 ext. 47007	<b>Sue Oelke,</b> Regional Director, Wisconsin 608.241.6604	<b>Krista Noel,</b> Regional Director Pennsylvania 800.222.1567	<b>Kris Morton,</b> Regional Director Ohio 800.284.0444 ext 11	<b>Karl Kroner,</b> Regional Director, New England 800.596.3384	<b>Bill L'Huillier,</b> Regional Director, Indiana 877.728.6738
<b>Denise Fortune</b> Regional Director, Maryland/DC 301.627.7579	<b>Steve Richer,</b> Regional Director, St. Louis 877.895.1394 ext 108	<b>Marianne Franco,</b> Regional Director, Glendale, CA 800.382.8924		<b>Gary Wilkins,</b> Regional Director, Houston 713.426.5588	<b>Mike Perez,</b> Regional Director, Guam/Micronesia 671.475.8945

**20th**  
ANNIVERSARY

2007 Marks the 20th Anniversary of Focus on 457, the leading newsletter for governmental defined contribution plans for over 20 years.

